

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GENEVA HENDERSON, *et al.*,

Plaintiffs,

v.

EMORY UNIVERSITY, *et al.*,

Defendants.

Civil Action No. 1:16-cv-02920-CAP

DEFENDANTS' REQUEST FOR CLARIFICATION

On February 25, 2020, the Court issued an order that resolved Plaintiffs' motion to de-designate documents (Doc. 198) as moot and set additional briefing deadlines for the case moving forward. (Doc. 202.) Based on the status of the docket, the Emory Defendants respectfully seek clarification on two points.

First, the Court's order set a deadline for "plaintiffs' response to the defendants' motion to exclude the proposed expert testimony of Dominguez and Buetow [Doc. No. 182]." (*Id.* at 2.) But because Plaintiffs already filed a full response to that motion in October 2019 (*see* Docs. 188, 189), Defendants wish to clarify whether the Court instead meant to set a deadline for Defendants' reply in support of that motion, whether it meant to direct Plaintiffs to refile their original response in an unsealed format on the public docket, or something else.

Second, the Court’s October 2019 order expressed a desire to avoid “even more sealed filings being placed on the docket[.]” (Doc. 193 at 3.) Looking ahead, Defendants will need to file materials related to Plaintiffs’ proffered experts with their upcoming submissions, including their impending response to Plaintiffs’ motion to exclude (Doc. 199)—due next Tuesday March 3, 2020, *see* L.R. 7.1(B)—as well as their reply in support of their motion to exclude Dominguez and Buetow, other *Daubert*-related filings, and their forthcoming motion for summary judgment. But Plaintiffs still have not removed their blanket confidentiality designations over the entirety of their expert witnesses’ Rule 26 reports and deposition transcripts (both as to Dominguez and Buetow, and also as to their other two proffered experts, Al Otto and Ty Minnich).

In turn, the Court’s Protective Order would require Defendants to file those submissions (or at least portions of them) provisionally under seal on the docket, while at the same time, the Court’s October 2019 Order directs the parties to avoid “even more sealed filings.” In short, Defendants request the Court’s guidance as to how to resolve this tension: whether Defendants should proceed to file such materials provisionally under seal per the Protective Order, whether Defendants should postpone any such filings until the Court resolves Plaintiffs’ confidentiality designations over their expert materials, or some other approach.

Respectfully submitted this 26th day of February, 2020.

s/ Matthew J. Sharbaugh

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing brief has been prepared in accordance with Local Rule 5.1, including preparation in Times New Roman 14-point font, one of the font and point selections approved by the Court in Local Rule 5.1(C).

This 26th day of February, 2020.

s/ Matthew J. Sharbaugh
Matthew J. Sharbaugh

CERTIFICATE OF SERVICE

I certify that I caused to be served a true and correct copy of the foregoing to be filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties to this matter via electronic notification or otherwise.

This 26th day of February, 2020.

s/ Matthew J. Sharbaugh
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